

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6383

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SAMUEL CLIVE PHILLIPS, a/k/a Jungle, a/k/a
Culture, a/k/a David,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Henry Coke Morgan, Jr., District
Judge. (CR-93-131-2)

Submitted: July 23, 2004

Decided: September 28, 2004

Before WIDENER, LUTTIG, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Clive Phillips, Appellant Pro Se. Kevin Michael Comstock,
Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Samuel Clive Phillips seeks to appeal the district court's order dismissing his motion for a sentence reduction as an unauthorized, successive 28 U.S.C. § 2255 (2000) motion. An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Phillips has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Phillips's motion to recall the mandate and amend the appeal in light of the Supreme Court's decision in Blakely v. Washington, 124 S. Ct. 2531 (2004).^{*} We

^{*}The Supreme Court has not made Blakely retroactively applicable to cases on collateral review. See In re Dean, ___ F.3d ___, No. 04-13244 (11th Cir. July 9, 2004). Moreover, this court has concluded that Blakely does not impact the federal sentencing guidelines. See United States v. Hammoud, No. 03-4253 (4th Cir.

dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

Aug. 2, 2004) (order), petition for cert. filed, ____ U.S.L.W. ____
(U.S. Aug. 6, 2004) (No. 04-193).